



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Tinker Reality Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing dealt with a landlord's application for an order to end the tenancy early and obtain an Order of Possession made under section 56 of the Act.

The landlord's agent appeared at the hearing and was affirmed. There was no appearance on part of the tenants despite leaving the teleconference call open 30 minutes.

Since the tenants did not appear, I explored service of hearing materials upon the tenants. The landlord's agent submitted that a registered mail package containing the hearing materials was sent to each tenant at the rental unit address on September 21, 2021. The landlord provided registered mail receipts, including tracking numbers, as proof of service. A search of the registered mail tracking numbers showed that Canada Post attempted delivery and left notice cards; however, the tenants have not accepted or picked up their registered mail. The landlord's agent confirmed the tenants continue to reside at the rental unit.

Section 90 of the Act deems a person to be in receipt of materials mailed to them five days after mailing, even if they refuse to accept or pick up their mail.

I was satisfied the landlord sent the hearing materials to the tenants in a manner that complies with section 89 of the Act and I deemed the tenants served five days after mailing, pursuant to section 90 of the Act. Accordingly, I continued to hear from the landlord's agent without the tenant's present.

Issue(s) to be Decided

Has the landlord established that the tenancy should end early and the landlord is entitled to an Order of Possession under section 56 of the Act?

Issue(s) to be Decided

The tenancy started on April 1, 2018 on a month to month basis and the tenants are required to pay rent of \$890.00 on the first day of every month. The rental unit is located in a three unit building. The other units are also tenanted.

The landlord's agent testified that in May 2021 an inspection was carried out in the rental unit. Significant damage was observed in the unit including numerous holes in the walls and a damaged entry door. The landlord issued a One Month Notice to End Tenancy for Cause due to the damage caused to the unit. After serving the tenants with the One Month Notice the circumstances deteriorated even further. The tenants invited street people to their unit where drugs and alcohol were sold and consumed and yelling and fighting ensued.

The landlord's agent testified that the police attend the rental unit frequently and arrest occupants of the rental unit but they are released a day or two later only to return to the property and resume the above-describe activity.

The landlord submitted that aside from an accumulation of garbage in the rental unit the tenants throw their garbage out on the grass which resulted in a warning letter from the City.

The other tenants in the building complain they are living in fear for their safety given the frequent drug and alcohol use, fighting, threats against them, and the presence of weapons.

The landlord's agent was informed by the other tenants that there are weapons in the rental unit, including a machete. The tenants have been denying the landlord entry to the rental unit to inspect the unit and the landlord's agent fear entering with their own key because the tenants have a pit-bull inside.

More recently the electricity to the rental unit was terminated by BC Hydro and the fire extinguisher thrown out of the rental unit. The landlord and the other tenants expressed

fear that a fire will break out and cause harm to the property and other persons occupying the property.

The landlord provided photographs of the interior and exterior of the property; a letter written by the property owner, another tenant living at the property, and a realtor.

The property owner describes risk to the property and his other tenants dying in a fire as being a major concern to him.

The letter from the other tenant describes activity in the rental unit as including drug and alcohol use along with drug sales, yelling, fighting and threats of violence against the tenant with a machete.

The realtor's letter describes the condition of the rental unit as being the worst she had ever seen, including the accumulation of garbage, rotting food and animal feces inside the unit; food thrown out the window; a rodent infestation; along with a horrendous odour.

The landlord's agent stated the tenants have also stopped paying rent but that is not the reason for this Application for Dispute Resolution. Rather, the landlord's focus is to end the tenancy early due to the risk the tenant's conduct, or person's they permit on the property, is creating for other occupants of the property and the property owner.

### Analysis

Under section 56 of the Act, the Director, as delegated to an Arbitrator, may order the tenancy ended earlier than if the landlord had issued a One Month Notice to End Tenancy for Cause ("1 Month Notice") and grant the landlord an Order of Possession. The landlord must demonstrate cause for ending the tenancy and that it would be unreasonable to wait for a 1 Month Notice to take effect.

Below I have reproduced section 56 of the Act:

- 56** (1) A landlord may make an application for dispute resolution to request an order
- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;

(iii) put the landlord's property at significant risk;

(iv) engaged in illegal activity that

(A) has caused or is likely to cause damage to the landlord's property,

(B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(v) caused extraordinary damage to the residential property, and

(b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect.

[My emphasis underlined]

Section 47 of the Act provides a mechanism for landlords to bring a tenancy to an end where the tenant has given the landlord cause to end the tenancy. A notice given under

section 47 affords the tenant at least one full move to vacate the rental unit. Section 56 also requires that the tenant has given the landlord cause to tend the tenancy; however, the seriousness of the alleged offence permits the landlord to have the tenancy ended with less than a month's notice. Accordingly, section 56 is intended to apply in the more urgent and severe circumstances.

In this case, I heard that the landlord had issued a 1 Month Notice to the tenants; however, the landlord did not pursue ending the tenancy with the 1 Month Notice. The landlord submitted that after serving the tenants with the 1 Month Notice, the circumstances deteriorated even further resulting in more damage to the property and risk to the property and other occupants.

Upon hearing the landlord's undisputed testimony and upon review of the landlord's photographic evidence and the letters written by the owner, another tenant, and a realtor, I find I am satisfied that the conduct of the tenants, or the persons they permit on the property, has or is likely to put the property and other occupants at significant risk of harm due to violence, threats of violence, drug use and sales, unsanitary conditions, and potential for fire. Accordingly, I am satisfied that this tenancy should be ended as soon as possible and it is unreasonable to wait for a 1 Month Notice to take effect.

In keeping with the above, I order the tenancy ended effective **two (2) days after the tenants are served with the Order of Possession** that accompanies this decision.

### Conclusion

Pursuant to section 56 of the Act, I order **the tenancy is ended effective two (2) days after the tenants are served with the Order of Possession** that accompanies this decision.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 15, 2021

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Residential Tenancy Branch